

PUBLIC COPY

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE

425 Eye Street N.W.

BCIS, AAO, 20 Mass, 3/F

Washington, D. C. 20536

FILE:

EAC 02 076 53805

Office: Vermont Service Center

Date:

AUG 08 2003

IN RE: Petitioner:
Beneficiary:

APPLICATION: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

IN BEHALF OF PETITIONER: Self-represented

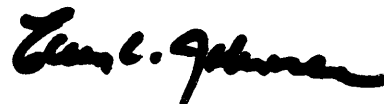
INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Nigeria, as the fiancée of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 101(a)(15)(K).

The director determined that, according to evidence in the record, the petitioner had not shown that he had personally met the beneficiary within two years prior to filing the petition. The director, therefore, denied the petition.

On appeal, the petitioner claims that he and the beneficiary did meet one year prior to the filing of the petition. He states that his first petition was closed because he did not timely respond to the director's request. He submits evidence that he had previously filed an I-129F petition.

Section 101(a)(15)(K) of the Act defines a nonimmigrant in this category as:

An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission, and the minor children of such fiancée or fiancé accompanying him or following to join him.

Section 214(d) of the Act, 8 U.S.C. 1184(d), states, in pertinent part, that a fiancé(e) petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival, except that the Attorney General in his discretion may waive the requirement that the parties have previously met in person....

The petition was filed with the Service on December 26, 2001. Therefore, the petitioner and the beneficiary must have met in person between December 27, 1999 and December 26, 2001.

The petitioner claims that he and the beneficiary had met one year prior to the filing of the petition. However, as noted by the director, when the petitioner filed the petition, there was no evidence in the record to indicate when or if the petitioner had ever met the beneficiary. The director further noted that in response to his request for evidence on February 5, 2002, the petitioner submitted copies of airline tickets that show that the petitioner traveled to Lagos on February 7, 2002 after filing the petition. The petitioner also submitted copies of an itinerary showing travel to Nigeria in March of an unnoted year. Absent other supporting documentation such as tickets or entry stamps in his passport this does not prove travel to Nigeria in the required time period. Despite the petitioner's

visit to Lagos in February 2002, he had not shown that he had personally met the beneficiary prior to the filing of the petition on December 26, 2001.

In a supplemental statement dated September 23, 2002, the petitioner states that the beneficiary is a friend of his sister, that he has known the beneficiary for the past twenty years, that she came to visit his sister when he was in Nigeria last year, and they had been going out ever since. He submits a photograph of himself and the beneficiary as proof that he and the beneficiary had met before their engagement in Nigeria. The petitioner, however, failed to submit any documentary evidence, such as airline tickets or copies of passport pages showing an entry and exit stamps, to establish his claim that he and the beneficiary had met personally within the required period, pursuant to section 214(d) of the Act.

The record contains copies of airline tickets reflecting that the petitioner traveled to Lagos on February 7, 2002. The petitioner appears to have visited his fiancée after the filing of the petition. The petitioner, however, has failed to establish that he and the beneficiary, had met within the two-year period prior to the filing of the petition as required, pursuant to section 214(d) of the Act.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden. Accordingly, the appeal will be dismissed.

This decision, however, is without prejudice to the filing of a new petition (Form I-129F), accompanied by all documentary evidence and required fees, now that the petitioner and the beneficiary have met.

ORDER: The appeal is dismissed.